

Chapter 4 — Contributions

This chapter discusses contributions and provides guidelines for proper reporting, including how to value nonmonetary contributions. For information about how to determine if a payment made for a communication is an independent expenditure, see Chapter 8.

A. What is a Contribution?

A contribution is a monetary or nonmonetary payment made to or received by a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. See the definition of “contribution” in FPPC Regulation 18215. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers, text contributions)
- Nonmonetary items (donated goods or services)
- Payments made by a third party for advertising or other communications coordinated with a candidate or committee
- Loans (including loan guarantees, co-signing, lines of credit, and forgiveness of a loan)
- Tickets to political fundraisers (full value of ticket)
- Funds collected through payroll deduction or membership dues that are earmarked or allocated for the purpose of making contributions to state or local candidates or committees
- Enforceable promises to make a payment (for example, a contributor promises, in writing, to pay for specific goods or services, and based on that written promise, the committee expends funds or enters into a legally-enforceable contract to purchase the good or services).

Note: Contributions of \$100 or more may never be made or received in cash. See Chapter 6 for additional contribution restrictions.

[Quick Tip] Contributions must be returned if the contributor’s name, address, occupation, and employer are not obtained within 60 days of receipt of the contribution. (See Chapter 3.)

Reporting Contributions Received and Made

Each type of contribution is reported differently. In fact, **when** a contribution is received is determined in part by what type of contribution it is.

In general, a **monetary** contribution is *made* on the date the contribution is mailed, delivered, or otherwise transmitted to the candidate or committee. Alternatively, the date of the check may be used provided it is no later than the date the contribution is mailed, delivered, or otherwise transmitted.

A **monetary** contribution is *received* on the date the committee or an agent of the committee obtains possession or control of the cash, check, or other item that constitutes the contribution. When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the treasurer must be notified by the agent no later than the closing date of the next campaign statement due. The date of the contribution is the date the agent obtained possession of the contribution.

[Quick Tip] When an agent of a committee, such as a professional fundraiser, receives a contribution, the treasurer must be notified by the agent no later than the closing date of the next campaign statement due.

[Example] John Burns, the campaign consultant for Citizens for Cleaner Air, received a hand-delivered check at a May 14, Friday evening fundraiser for Citizens. John did not give the check to the committee's treasurer for deposit until the following Monday, May 17. The contribution was received on May 14, the day the committee's agent obtained possession of the check.

Citizens for Cleaner Air also contracts with a website service to receive contributions over the Internet. The website service sends the committee's treasurer an email each time a contributor logs on to the website service and enters his or her donor information and credit card number. Logging onto the website service, the treasurer can accept the contribution and receive the funds. The committee reports receipt of the contribution on the date it receives the email from the website service because it controls the contribution on that date.

A **nonmonetary contribution** is *made* by the contributor and *received* by the candidate or committee on the **earlier** of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the committee or an agent of the committee obtained possession or control of the goods or services;
- The date the committee received the benefit of the expenditure.

A nonmonetary contribution of **employee services** is made by the contributor and received by the candidate or committee on the **payroll date** of the employee.

An **enforceable promise** is made by the contributor and received by the candidate or committee on the date the candidate or committee or an agent of the candidate or committee is provided documents verifying that the contributor has made a legally-enforceable promise to make a payment. A person makes an "enforceable promise to make a payment" if he or she:

- Guarantees a loan.
- Furnishes security for a loan.
- Endorses a loan.
- Cosigns a loan.
- Makes and delivers a post-dated check.
- Establishes a line of credit at a bank or other commercial lending institution for a candidate or committee.

A pledge card is not considered an enforceable promise to make a contribution. "Enforceable promise" also does not include a contributor's agreement to make future installment payments through wire transfer, credit card transaction, debit account transaction, or similar electronic payment.

B. Contributions: Exceptions

There are many exceptions to the definition of "contribution" contained in FPPC Regulation 18215. In addition to the most common exceptions listed below, Chapter 8 discusses certain types of political communications that are not considered contributions.

Volunteer Personal Services: If an individual donates his or her personal or professional services to a committee, no contribution has been made or received. However, if an employer donates employee services to a committee, and any employee spends more than 10 percent of his or her compensated time in a calendar month providing the services, the employer has made a nonmonetary contribution. “Volunteer personal services” does not include any tangible items. Donated goods are contributions.

Home/Office Fundraisers: If a person holds a fundraiser or other campaign event for a candidate or committee in his or her home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is \$500 or less.

If a fundraiser will exceed \$500, all payments are reportable nonmonetary contributions, including the reasonable rental value of the home/office for the duration of the fundraiser. If the costs of the home/office fundraiser do not otherwise exceed \$500, the reasonable rental value of the space is not factored in.

A registered state lobbyist may not make a contribution to an elected state officer or candidate for elective state office if the lobbyist is registered to lobby the official’s agency or the agency for which the candidate is seeking election. Therefore, the FPCC does not advise that a lobbyist host a fundraiser for such officials, even if the candidate agrees to pay the fundraiser’s expenses. The FPCC has imposed significant fines on lobbyists.

[Examples] Jim Yee holds a fundraiser in his home for a committee. He spends \$250 on decorations, food, and drinks for the event. His neighbor brings some door prizes with a fair market value of \$50. Since the total cost of the event is under \$500, Jim’s \$250 is not reportable. However, his neighbor has made a nonmonetary contribution of \$50.

Shannon sponsors an event after work in her business’ downtown office to raise contributions for a committee. Shannon spends \$450 to have the event catered. Her friend supplies a flower arrangement centerpiece worth \$125. Since the total cost of the event now exceeds \$500, both Shannon’s contribution of \$450 and her friend’s \$125 flower arrangement are reportable by the committee.

[Quick Tip] For the “contribution” exception to apply, the total cost of the home or office fundraiser must be \$500 or less, no matter how many candidates or committees benefit from the event.

Social Media – Internet Communications: Uncompensated Internet activity by an individual, such as sending or forwarding electronic messages, social networking, blogging, creating or hosting a website, to support or oppose a candidate or ballot measure is not considered a contribution or expenditure.

When a PAC blogs or posts communications that expressly advocate a candidate or measure, the advertisement is subject to disclaimer requirements. Depending upon the communication and the cost to prepare the communication, a contribution may be reportable.

[Example] A PAC may establish a social media account (e.g., Facebook, Twitter, Tumblr) to engage in campaign activity, such as posts or tweets to support candidates and ballot measures. See Chapter 9 for information about required disclosure for advertisements.

Administrative Expenses – Sponsored Committees: Payments made by a sponsoring organization for the “establishment and administration” of its sponsored committee are not considered contributions but must be reported.

“Establishment and administration” of a sponsored committee means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee. In addition, bank fees (including fees for monthly services, purchasing/printing checks, cashier’s checks and money orders, overdraft, stop payments) and third party vendor fees, such as internet account fees and merchant account fees, are considered payments for the establishment and administration of its sponsored committee, so long as they are not incurred for fundraising activities.

Although the establishment and administration costs are not contributions from the sponsor to the committee, the committee must report them on Schedule C (Nonmonetary Contributions Received) of its campaign disclosure reports (Form 460).

Other payments made by a sponsoring organization, such as the cost of raising funds for the committee and the cost of reviewing a communication to determine the advertisement disclosure requirements, are contributions to the committee. These payments are subject to regular reporting and contribution limits for committees that make contributions to state candidates.

In addition, if the sponsoring organization provides services to a candidate or a committee other than its sponsored committee, those payments are contributions to the candidate or committee, which must be reported by the sponsoring organization. The sponsoring organization may file its own reports to disclose the contributions or, in most circumstances, the contributions are disclosed on the sponsored committee’s campaign statements.

[Example] The members of an association make regular dues payments to the association, a portion of which is earmarked to be used by the association’s sponsored committee for contributions to candidates. The association collects and transmits the earmarked dues payments to the committee and provides the committee with office space, staff, and accounting services. The committee discloses the earmarked member dues as monetary contributions on Schedule A of its campaign reports and the administrative services from the association in the “Description of Goods or Services” column on Schedule C.

During an election year, the association sends a mailing to its members to raise funds for the upcoming state elections. The sponsored committee must disclose the payment made by the association for the mailing on Schedule C as a nonmonetary contribution from the association, and because the committee makes contributions to state candidates, contributions to the committee are limited to \$6,800 from a single source in a calendar year, including contributions made to the committee by the sponsoring organization.

Member Communications: Payments made by an organization or its sponsored committee for a communication that supports or opposes a candidate or ballot measure are not contributions or expenditures as long as the communication is made only to the organization’s members, employees, or shareholders, or to the families of its members, employees, or shareholders. The

communication may not be for general public advertising, such as billboards, newspaper ads, or radio or television ads. Payments made by a recipient committee for member communications must be disclosed as regular expenditures on the committee's campaign disclosure statements (Form 450 or 460). See Chapter 8 for special rules that apply to political parties.

Gifts: A payment or other benefit to a candidate or official that is made principally for *personal purposes* (not political purposes) is a gift unless the candidate or official provides payment or services of equal or greater value. Generally, gifts are subject to annual limits and must be disclosed by the candidate or official on a Form 700 (Statement of Economic Interests). For additional information about gifts, see the fact sheet entitled, *Limitations and Restrictions on Gifts, Honoraria, Travel and Loans*.

Payments for Legislative, Governmental, or Charitable Purposes: Behested payments made in connection with a legislative, governmental, or charitable purpose, are not considered to be made for political or personal purposes; therefore, they are not considered contributions or gifts. However, if the payment is made at the behest of an elected official and the payment(s) totals \$5,000 or more from a single source in a calendar year, the official is required to file a Form 803 (Behested Payment Report) to disclose the payment within 30 days. Behested payments solicited by state elected officials are posted on the FPPC's website.

[Example] At the request of a county supervisor, the Committee for Educated Children donates \$5,000 to a school for the purpose of purchasing library books. Although the payment is not considered a gift or a contribution, the supervisor must file a Form 803 to report the behested payment within 30 days.

C. Aggregating Contributions

There are special rules for "major donors" (generally these are individuals and business entities that make contributions totaling \$10,000 or more in a calendar year) when they make contributions that are subject to aggregation. The major donor must notify each committee to which it makes a contribution of the name under which the major donor is filing its report (Form 461). The recipient of the contribution must identify the name of the "filer" and the name of the contributor, if that is different than the name of the filer.

[Example] Temple Construction is a subsidiary of Temple Enterprise. Your committee receives a contribution from Temple Construction. Temple Construction is required to notify you that its contribution is reported on a campaign statement filed under the name of Temple Enterprises. Your committee must identify both names on its report and, if you receive contributions from both entities, the contributions must be aggregated for purposes of state contribution limits and for reporting cumulative amounts.

If more than one affiliated committee receives contributions from the same donor, the contributions received by the committees are not cumulated.

[Example] State Firefighters United has two general purpose committees: one committee makes contributions to state candidates and the other committee makes contributions to support state and local ballot measures. Leah Perry made a contribution of \$200 to each committee. Each committee reports the contributions from Leah on Schedule A, in the column titled Cumulative to Date – Calendar Year, as \$200.

If a general purpose committee has more than one bank account (see Chapter 5), contributions from a single source are cumulated.

[Example] The State Firefighters United committee has two bank accounts; one is used to make contributions to state candidates and the other is used only for administrative expenses. Bill Woods made two contributions to that committee; \$2,500 for the state candidate account and \$500 for the administrative account. When the committee reports the contributions on Schedule A, \$3,000 is the amount reported in the column titled Cumulative to Date – Calendar Year.

Contributions made by certain individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

The following are aggregated:

- Contributions made from an individual's personal funds and from an entity's funds he or she directs and controls.
- Contributions made by two or more entities that are directed and controlled by a majority of the same persons.
- Contributions made by entities that are majority owned by any person. Contributions made by the majority owner and all other entities majority owned by that person are aggregated unless the entities act independently in their decisions to make contributions.

[Quick Tip] The term "person" includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, and association.

The following are examples to provide general guidance regarding aggregation of contributions. Every case is unique. If these examples are not helpful, contact the FPPC for advice.

[Examples] Global Corporation has a board of directors and the Corporation has a sponsored general purpose recipient committee with a separate board of directors. (No one director serves on both boards.) Global Corporation may make a contribution of \$4,100 to an Assembly candidate for the primary election and the sponsored PAC may also make a contribution of \$4,100 (2013-2014 contribution limit) to the same candidate for the primary election.

A union has a small contributor committee and another committee that makes contributions to state candidates. The contributions of both committees are approved by a single board of directors. If the small contributor committee makes a \$13,600 contribution to a Lt. Governor candidate's general election (2013-2014 contribution limit for a small contributor committee), the other committee may not make a contribution to the candidate for the same election.

Sally Perez Jones contributed \$98 from her personal funds and another \$98 from the funds of her business, Flowers by Sally, to the Committee to Advance Public Education. Because contributions from an individual and his or her business, or from any other account he or she directs and controls, are considered from a single contributor, the committee must itemize both contributions and report a cumulative amount received of \$196 on its campaign statement.

William owns two separate corporations. William makes political contributions from his personal funds and directs and controls the contributions of his corporations. William made a contribution of \$800 from his personal funds and contributions of \$3,000 from the funds of each of his corporations to the Committee to Advance Public Education. Because William directed and controlled all of these contributions, they are considered to have been made by a single contributor. The committee must itemize each contribution and show a cumulative amount received of \$6,800. If the committee makes contributions to state candidates, it may not receive any additional contributions from William or his corporations for the rest of the calendar year unless the contributions are placed in a separate “restricted use” account.

Southwest TeleCom has a greater than 50 percent ownership interest in American TeleCom. Each entity, entirely on its own, and with separate decisionmaking bodies, makes a contribution of \$1,000 to the Committee to Advance Public Education. The committee does not aggregate these contributions because Southwest TeleCom and American TeleCom acted completely independently in their decisions to make the contributions.

D. Reporting the Intermediary of a Contribution

An intermediary is a person or entity that makes a contribution on behalf of another person and has been or will be reimbursed for the contribution. For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation and employer information must be disclosed for both the true source of the contribution and the intermediary.

[Examples] Kenny made a \$100 contribution from his personal funds to support the Committee to Advance the Arts, with the understanding that he would be reimbursed by his employer, Gary’s Guitars. Kenny must tell the committee that he is acting as an intermediary on behalf of his employer. The committee must itemize the contribution from Gary’s Guitars and list Kenny as an intermediary.

A trade association’s PAC collected \$200 from each of its members after sending a solicitation stating that the funds would be used to make a contribution to a local candidate. The PAC made a single contribution to the local candidate in the total amount received from its members. The committee receiving the contribution must report each of the members as contributors, with the PAC as an intermediary.

The California Automobile Insurers Association’s (CAIA) sponsored general purpose committee received a \$5,000 check from one of its members. The member stated in an email to the committee’s treasurer that she would like the funds to be contributed to the Yes on Proposition 42 Committee. The treasurer must inform the ballot measure committee that the member was the true source of the funds and the CAIA committee is acting as the intermediary. The ballot measure committee must report both the true source of the funds and the intermediary.

Committee treasurers are required to check information regarding the true source of a contribution if a person of reasonable prudence would question it based on all available information. If there is reason to question the source of a contribution, e.g., if there is reason to believe the information contained on the contribution check does not contain the name of the person who is actually making the contribution, the donor should be asked if he or she is acting as an intermediary for the true source of the contribution.

Failure to disclose the true source of a contribution is often referred to in media reports as campaign money laundering and is one of the most serious violations of the Political Reform Act.

[Quick Tip] When a general purpose committee makes a payment to another general purpose committee, whether or not the receiving committee is considered an intermediary depends on the facts of the situation. Contact the FPPC with questions.

E. Reporting Common Contributions

Electronic Receipt of Contributions: Contributions may be made or received by credit card, wire transfer, via the Internet, cell phone text message, telephone, debit account transaction, or similar electronic payment options:

- For contributions of \$25 or more, the committee treasurer should make sure that a copy of the credit card voucher or other documentation is sent to the committee as soon as practicable after the contributions are made.
- The entire amount charged to the contributor is reported as a contribution.
- Fees associated with this type of fundraising or deducted by the vendor before the contributions are sent to the committee are reported as expenditures; the fees are not deducted from the amount of each contribution reported.

Fundraisers: The full amount (face value) of a fundraiser ticket is a reportable contribution.

[Example] Your committee holds a fundraiser and charges \$100 per person. After the event, you determine that your committee spent \$25 per person to pay for the caterer, hall rental, entertainment, invitations, etc. Report on Schedule A of the Form 460 each contributor's name, address, occupation, employer, and the full \$100 per ticket as a contribution. Do not subtract \$25 from each ticket sold. The expenses will be reported on Schedule E of the Form 460.

Auctions and Garage Sales: When items are donated for auction or sale at a fundraiser, the donated item is a nonmonetary contribution. (See below for determining the value.) When someone buys an item, the payment is usually considered a "Miscellaneous Increase to Cash" and is reported as such. If any person pays \$100 or more, the payment is itemized.

However, when someone pays more for an item than it is worth, the amount that is equal to the fair market value is reported as a miscellaneous increase to cash and the amount over the fair market value is reported as a monetary contribution. Both must be itemized at \$100 or more.

[Example] Andy Foster owns an electronics store and donates a TV worth \$500 to your committee. At your committee's auction, Gloria Fernandes bids \$600 for the TV. Itemize \$500 as a nonmonetary contribution from Andy's store. Then, itemize \$500, that part of Gloria's payment that is the fair market value of the TV, as a miscellaneous increase to cash. Also itemize \$100, the amount over the fair market value, as a monetary contribution from Gloria.

Bar Receipts: Funds received by selling drinks at a fundraiser at fair market value are reported as miscellaneous increases to cash, not contributions.

Raffle Tickets: Receipts from the sale of raffle tickets at a fundraiser are reported as contributions. Items donated for raffle prizes are reported as nonmonetary contributions. (Note that Penal Code section 319 imposes some restrictions on raffles. Contact your county's district attorney for further information.)

Joint Checking Accounts: Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as coming from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check that clearly indicates a different apportionment.

[Example] Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a \$100 check payable to Californians Against Drug Abuse. The committee identifies Linda Nelson as the contributor of the full \$100.

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Business Accounts: Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

Text Contributions: For a contribution made by a text message, the contributor is the person who is subscribed to the cell phone number that texted in the contribution.

Minor Children: A contribution made by a child under the age of 18 is presumed to be a contribution from his or her parent or guardian, unless the facts show that the child actually chose to make the contribution.

F. Valuing Nonmonetary Contributions

This section provides assistance in determining how to value nonmonetary contributions so that they may be reported accurately. The varieties of nonmonetary contributions are vast, so not all possibilities are presented. Contact the FPPC for assistance.

Fair Market Value

When a nonmonetary contribution is made or received, the fair market value of the goods or service must be reported. If the committee does not know the fair market value of a nonmonetary contribution, such as an original piece of artwork, the committee may send a letter requesting that the contributor provide the value of the contribution in writing. The contributor is legally obligated to provide an amount if the value of the contribution is \$100 or more.

[Example] The owner of an electronics store donates an iPad valued at \$550 to a committee for sale at an upcoming auction. Although the cost to the owner is less than \$550, the nonmonetary contribution is reported at the fair market value amount of \$550 (the amount it would cost a member of the public to purchase the iPad).

Employee Time: If a business donates the use of an employee to work on a campaign, the amount the individual is paid for working on the campaign is reportable if the employee spends

more than 10 percent of his or her compensated time in a calendar month working on campaign activity.

[Example] Your committee donates the services of one of its employees to a ballot measure committee during the last month of the campaign. The employee spends 25 percent of her compensated time working for the campaign. The value of the nonmonetary contribution is 25 percent of her gross salary; standard benefits such as retirement and health care contributions do not need to be counted.

Private Air Transportation: A person that provides members of a committee or a candidate with a flight in a private airplane is making a nonmonetary contribution. The value is determined by using one of the following methods: the commercial rate, if available, to the destination or the charter rate divided by the number of passengers on the flight.

Discounts: If the committee receives a discount on goods or services it purchases and the discount is not offered to the public in the regular course of business, the discount is a nonmonetary contribution that must be reported.

[Example] Your committee treasurer knows the owner of Janns' Printing Shop and gets the owner to give your committee a 50 percent discount on the printing of a fundraising invitation that normally would cost \$1,200. Your committee has received a nonmonetary contribution of \$600 from Janns' Printing Shop.

Joint Fundraisers: If a committee pays for a fundraising event for multiple candidates, the fair market value of the contribution for each candidate may be allocated based on the amount of expenditures and the number of candidates at the event.

Email Lists: If a list of email addresses is donated, the fair market value must be reported as a nonmonetary contribution.

Corporate Stock: The contribution of corporate stock must be reported and valued as listed on the stock exchange on the date of receipt. When the stock is sold, the total proceeds of the sale are reported on Schedule I as a miscellaneous increase to cash. If the purchaser is unknown, report the brokerage firm as the source with a notation that the payment represents the sale of stock. Broker's fees must be reported on Schedule E.

G. Mailings, Telephone Banks, Polls

Multiple Candidates/Measures: If a communication expresses support of or opposition to more than one candidate or ballot measure, the fair market value attributable to each may be calculated by prorating the costs among the featured candidates and ballot measures. The prorated value is based on the amount of space allotted to each candidate or measure supported or opposed in the mailer.

The value of a mailer that supports or opposes candidates and measures being voted on in different jurisdictions may be prorated based on the number of mailers sent to each candidate or ballot measure's jurisdiction.

[Example] A PAC produces and mails a one-page flyer urging voters to vote for Proposition 310 and to vote for two statewide candidates. Half of the flyer is devoted to supporting

Proposition 310 and the other half equally supports the candidates. The PAC coordinates the mailing with the committee primarily formed to support Proposition 310, but does not coordinate with either candidate's committee. The total cost of producing and mailing the flyer is \$14,000. The PAC has made a nonmonetary contribution to the committee supporting Proposition 310 valued at \$7,000, and has made independent expenditures of \$3,500 apiece supporting the two candidates.

Political and Non-Political Material: The cost of a communication containing both express advocacy in support of or opposition to a candidate or ballot measure, as well as non-political material, may be prorated. Costs directly associated with the political message are reportable as nonmonetary contributions, including, for example, compensation paid to employees who spend more than 10 percent of their compensated time in a calendar month producing or mailing the political materials, and the pro rata cost of paper, envelopes, and postage. The allocation may be based on the additional weight of the political material or the comparative number of pages as between the political and non-political material.

[Example] A local association of realtors is holding a golf tournament, which will be featured as a networking and marketing event for its members. The association sends invitations, which include an option for attendees to donate an additional sum earmarked for the association's sponsored committee. Because the invitations include non-political material as well as political material (i.e., the portion of the invitation that solicits contributions for the association's sponsored committee), the costs may be prorated. Costs directly associated with the political message are reportable by the committee, including the pro rata costs of paper, envelopes, and postage. The allocation may be based on the comparative amount of space devoted to political versus the non-political material.

Bulk Rate Permits: Except for the use of a nonprofit sponsor's bulk rate by its sponsored committee, use of another organization's bulk rate permit is a nonmonetary contribution from the organization. If the candidate or committee using the permit pays the actual postage costs incurred, the fair market value of the contribution is either:

- The price the organization paid for the bulk mailing permit; or
- The difference in postage costs between the bulk mailing rate and that of regular mail.

If the organization pays for the costs of the mailing using its bulk rate permit, and the candidate or committee does not have such a permit, the amount it would have cost to pay for the mailing using regular mail or the cost of the bulk rate mailing plus the cost of a permit should be reported as a nonmonetary contribution.

A sponsored committee's use of its sponsor's nonprofit postal permit is not a contribution from the sponsor to the committee since the committee could obtain the same permit at no cost. (See Chapter 1 for the definition of "sponsored committee.")

Phone Banks: Businesses and other entities will sometimes allow a committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution. One method to determine the fair market value is to contact organizations that provide phones banks as a business.

[Example] A committee provided phone banking services. The services included the use of phone banking software, the cost of the call list, the cost of voter updates from the registrar, and donated materials and snacks for the volunteers. The calls expressly advocated for a candidate and a measure; both of which will be voted upon by all the same voters and the message provides equal time to both committees. The contribution to each committee may be valued at one-half of the total cost for the phone bank. Note: If a phone bank makes calls on behalf of several committees with different voting jurisdictions and different messages, the committees must also report the fair market value, which may not be determined simply by dividing the full cost by the number of committees. Contact the FPPC for assistance.

Polls & Surveys: A person or entity that provides data from a public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. Standards used by the Federal Election Commission (11 CFR 106.4) may be used for valuing polling or survey data, as to the aging of poll results and the amount of a contribution attributable to each candidate or committee that receives the poll results. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the candidate or committee.

Age of Data	Value
0 -15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate or committee, the nonmonetary contribution is the prorated portion of the total value of the survey. In other words, the value of the nonmonetary contribution is based on the value of the information the committee receives. If the benefiting committee used 50 percent of the poll, the nonmonetary contribution value would be 50 percent of the total poll cost.

When two or more committees equally share the costs of a poll, before the results are known, the payments do not result in nonmonetary contributions among the committees. Committees are encouraged to contact the FPPC with specific facts for assistance.

H. \$5,000 Notification to Potential “Major Donors”

Candidates and committees, including multi-purpose organizations (e.g., nonprofits), that receive one or more contributions totaling \$5,000 or more in a calendar year from an individual or entity must send the contributor written notice that they may need to file a campaign statement if their contributions to state and local candidates and committees total \$10,000 or more in a calendar year. The notice may be tailored as long as it contains language substantially similar to the language below:

If your contribution(s) to this committee and to other California state or local committees total(s) \$10,000 or more in a calendar year, California law requires you to file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. In addition, once you become a major donor, you are required to a Form 497 (24-Hour Contribution Report) within 24 hours if you make contributions totaling \$1,000 or more to a

single candidate, his or her controlled committee, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 90 days before the election in which the candidate or measure is being voted upon or make contributions totaling \$1,000 or more to a state or county political party committee during the 90 days prior to a state election.

Failure to file campaign statements may result in late filing penalties (\$10/day) and fines (up to \$5,000/violation). For more information, contact the Fair Political Practices Commission toll free at (866) 275-3772 or refer to their website: www.fppc.ca.gov.

Additionally, if you make contributions of \$25,000 or more in a calendar year in California and some or all of those contributions are to state candidates, committees, or ballot measures, you are required to file your Form 461 electronically with the Secretary of State. For more information on the electronic filing requirements, contact the Secretary of State's Office at (916) 653-6224.

The notice is not required if the source of the contribution is an existing committee, because it already is required to file campaign statements.

In addition, if you send a major donor notice to a nonprofit organization or other multipurpose organization that receives contributions from others, you may want to add language stating that the organization may be required to file campaign statements disclosing donors.

The notice must be sent, faxed, or emailed to the contributor within two weeks of receipt of the \$5,000 contribution(s). No further notices are required for subsequent contributions received from the same contributor within the same calendar year.

A copy of each notice or a record of all notices showing the date sent, faxed, or emailed, and the name and address of the person receiving the notice must be retained.

[Quick Tip] A major donor notice must be sent to persons listed on a campaign report prepared by a multi-purpose organization. For example, if when using the LIFO accounting method to determine reportable sources, a contributor of \$5,000 or more is identified, the organization must sent the contributor a major donor notification.

I. Returning Contributions

There are several provisions in the Act and FPPC regulations that regulate the return of contributions. The general rule is that a committee may return contributions to its contributors so long as the return is reasonably related to a political, legislative, or governmental purpose.

Reporting

A contribution is not required to be reported if it is not deposited, cashed, or negotiated and it is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported. Once a contribution is deposited, cashed, or negotiated, it must be disclosed on the next campaign statement, even if it is subsequently returned.

Contributions that Exceed the Limits

Contributions that exceed the contribution limits are not considered accepted if they are not deposited into the committee's bank account and are returned within 14 days of receipt. For nonmonetary contributions, either the item itself, its monetary value, or the monetary amount by which the value of the nonmonetary contribution exceeds the limits must be returned within 14 days of receipt. Contributions that exceed the contribution limits may, under certain

circumstances, be deposited into a general purpose committee's "restricted use" account which may not be used for contributions to state candidates.

Missing Contributor Information

A contribution of \$100 or more must be returned within 60 days of receipt if the committee has not obtained the contributor's name, address, and, in the case of a contributor who is an individual, his or her occupation and employer. (See Chapter 3 for additional information.)

Answering Your Questions

- Q. We are holding a \$100-a-plate fundraiser for our committee. The actual cost of the event to our committee will be \$25 per person. When someone gives us \$100 to attend the dinner, do we report \$100 as a contribution, or do we subtract the \$25 and report receiving a \$75 contribution?*
- A. The cost of the ticket for the fundraiser is the amount of the contribution. Report \$100 as the contribution.
- Q. When we send out a fundraising letter, are we required to put our committee identification number on the invitation?*
- A. There is no requirement to put the identification number anywhere on the letter. However, many campaigns do so because if other committees, or others with their own reporting obligations, contribute to your committee, they will need your identification number to complete their campaign reports.
- Q. We would like to hold a raffle at our next fundraiser. Are there any restrictions on raffles?*
- A. The Political Reform Act does not restrict raffles. However, Penal Code Section 319 does prohibit some raffles. This code is interpreted and enforced by each county's district attorney. Contact the local district attorney where the raffle will be held for further information. Standard reporting and recordkeeping is required.
- Q. If Jan, my next door neighbor, spends \$1,000 on an event to help raise funds for two different ballot measure committees and the event is held in her home, has she made a contribution to each committee?*
- A. Yes. The total cost of a home fundraiser must be \$500 or less, or the event will qualify as a nonmonetary contribution. This is true no matter how many committees benefit from the event.
- Q. May a nonprofit organization hold a joint fundraiser with a political committee?*
- A. Yes. However, any costs incurred by the nonprofit organization that are not reimbursed by the political committee would be considered a nonmonetary contribution from the nonprofit to the political committee. The nonprofit organization should contact the IRS for any possible restrictions based upon the organization's tax status.
- Q. Three ballot measure committees wish to conduct individual polls. A polling firm has offered a reduced rate because all three polls can be combined using one very large sample. Are the committees receiving contributions from the polling firm because of the discounted fee, and are the committees making contributions to each other?*
- A. If each committee pays only its share of the cost of the poll, the committees are not making contributions to each other. Additionally, if the polling firm provides the discount as part of

its standard business policy and does not provide the discount for political purposes, the committees are not receiving contributions from the polling firm.

Q. The sponsoring organization of a general purpose committee produced and sent a communication to its members advocating the committee's position on a ballot measure. Are costs associated with this communication reportable by the committee?

A. No. Payments made by an organization for communications that are sent only to the organization's members, employees, or shareholders, or their families, are not contributions to the ballot measure committee endorsed in the communications.

AUTHORITY

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

Government Codes Sections

82015	<i>Contribution.</i>
82018	<i>Cumulative Amount.</i>
82025	<i>Expenditure.</i>
82025.5	<i>Fair Market Value.</i>
82027.5	<i>General Purpose Committee.</i>
82041.5	<i>Mass Mailing.</i>
82043	<i>Measure.</i>
82047	<i>Person.</i>
84104	<i>Recordkeeping.</i>
84105	<i>Notification of Contributors.</i>
84211	<i>Contents of Campaign Statements.</i>
84216	<i>Loans.</i>
84300	<i>Cash and In-Kind Contributions; Cash Expenditures.</i>
84301	<i>Contributions Made Under Legal Name.</i>
84302	<i>Contributions by Intermediary or Agent.</i>
85311	<i>Affiliated Entities; Aggregation of Contributions to State Candidates.</i>
85312	<i>Communications to Members of an Organization.</i>
85319	<i>Returning Contributions.</i>
85700	<i>Donor Information Requirements; Return of Contributions.</i>

Title 2 Regulations

18215	<i>Contribution.</i>
18215.1	<i>Contributions; When Aggregated.</i>
18215.2	<i>Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.</i>
18216	<i>Enforceable Promise to Make a Payment.</i>
18225	<i>Expenditure.</i>
18225.7	<i>Made at the Behest of.</i>
18421.1	<i>Disclosure of the Making and Receipt of Contributions.</i>
18421.3	<i>Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.</i>
18421.31	<i>Text Message Contributions.</i>
18423	<i>Payments for Personal Services as Contributions and Expenditures.</i>

- 18427.1 *Notification to Contributors of \$5,000 or More.*
- 18428 *Reporting of Contributions and Independent Expenditures Required to be Aggregated.*
- 18431 *Reporting of Expenditures by an Agent or Independent Contractor.*
- 18432.5 *Intermediary.*
- 18531 *Return of Excessive Contributions.*
- 18531.7 *Payments for Communications – Section 85312.*
- 18533 *Contributions from Joint Checking Accounts.*
- 18534 *Required Committee Bank Accounts.*
- 18570 *Return of Contributions with Insufficient Donor Information.*
- 18946.4 *Reporting and Valuation of Gifts: Tickets to Nonprofit and Political Fundraisers.*